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PATRICIA RACELIS

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF CALIFORNIA

PATRICIA RACELIS,

Plaintiff,

vs.

EAST BAY INTEGRATED CARE, INC., dba
HOSPICE OF THE EAST BAY, and DOES 1 to
25, inclusive

Defendant.

Case No.: C 14-01301 PJH

**JOINT STIPULATION TO DISMISS
WITHOUT PREJUDICE CERTAIN OF
PLAINTIFF'S CLAIMS AND TO AMEND
FIRST AMENDED COMPLAINT
ACCORDINGLY; [PROPOSED] ORDER**

[FRCP 41(a)(2) and 15(a)]

1st Amended Complaint Filed: February 11, 2014
Contra Costa Case No.: MSC 13-02197
Trial Date: To be determined

1 Plaintiff Patricia Racelis ("Plaintiff") and Defendant East Bay Integrated Care, Inc., dba
2 Hospice of the East Bay ("HEB"), by and through their respective counsel of record, hereby stipulate
3 that the following claims in Plaintiff's First Amended Complaint will be dismissed without prejudice
4 and that, by force of this stipulation and Order, Ms. Racelis' First Amended Complaint will be
5 amended as follows:

- 6 1. Plaintiff's Third Cause of Action for failure to pay overtime under the FLSA is dismissed
7 without prejudice;
- 8 2. Plaintiff's Eleventh Cause of Action for failure to provide reasonable accommodation
9 under the ADA is dismissed without prejudice;
- 10 3. Plaintiff's Twelfth Cause of Action for retaliation and discrimination on the basis of
11 disability under the ADA;
- 12 4. Plaintiff's Thirteenth Cause of Action for retaliation and interference will be amended to
13 remove and dismiss, without prejudice, Plaintiff's claims under the FMLA, 29 U.S.C. §§
14 2601, et seq., 2611(4)(A)(ii)(i), 2617(a)(1)(A)(iii), and 29 CFR § 825.104(d) but the
15 portions that rely on California law will continue as part of the lawsuit; and
- 16 5. Plaintiff's Prayer for Relief at sections 7 and 10 will be amended to eliminate reliance on
17 the FLSA, FMLA and ADA, without prejudice;

18 Therefore, Plaintiff's First Amended Complaint, filed in Contra Costa County Superior Court
19 on February 11, 2014 and removed to this court by HEB on March 20, 2014 shall be deemed so
20 amended by this Order.

21 Because this amendment limits existing claims but does not add any new claims, HEB's
22 currently operative Answer, filed in Contra Costa County Superior Court on March 20, 2014, shall
23 continue to be its currently operative Answer.

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1 IT IS SO STIPULATED.

2 DATED: April 29, 2014

3 OGLETREE, DEAKINS, NASH, SMOAK &
4 STEWART, P.C.

5 By: /s/
6 ERICA K. ROCUSH
7 Attorneys for Defendant
8 EAST BAY INTEGRATED CARE, INC.
9 dba HOSPICE OF THE EAST BAY

10 LAW OFFICES OF RICHARD J. VAZNAUGH

11 By: /s/
12 RICHARD J. VAZNAUGH
13 Attorney for Plaintiff
14 PATRICIA RACELIS

15 **[PROPOSED] ORDER**

16 **PURSUANT TO STIPULATION AND FOR GOOD CAUSE, IT IS SO ORDERED.**

17 Dated: 5/27/14

18
19 HON. PHYLLIS J. HAMILTON
20 District Court

